

Appl. no. 09/698,705
Amdt. dated 9/30/2003
Reply to Office action of 07/29/2003

that the deposit statement in the specification at pages 73 and 74 do not indicate the extent of public availability. The Examiner states that the deposit requirements would be satisfied by an affidavit stating that the deposit was made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public will be irrevocably removed upon the granting of a patent.

This rejection is respectfully traversed on the following grounds. Applicants submit that the specification at the last paragraph straddling pages 73 and 74, does state that the deposit of the cell lines was made under the terms of the Budapest Treaty "which assures permanent and unrestricted availability of the progeny of the cultures to the public upon the issuance of the pertinent U.S. patent..." Therefore, it is Applicants' belief that the requirements for cell line deposit that the Examiner pointed to have already been fulfilled in the specification and see no necessity for filing a affidavit to that end.

Telephone messages were left for the Examiner on August 25, and September 26, 2003, in an attempt to resolve this rejection. The Examiner requested in a return voice message that Applicants file a written response to this office action anyway. If the Examiner believes that there are further insufficiencies with regard to the deposit, she is requested to telephone the undersigned at the number below so that the necessary papers can be filed as soon as possible.

If the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 07-0630 (Ref. Docket No. P1777R1).

Respectfully submitted,
GENENTECH, INC.

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